

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROYCE PRIVETT, #181935,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06-CV-1019-MHT
)	(WO)
STATE OF ALABAMA, et al.,)	
)	
Defendants.)	

ORDER

On November 13, 2006, the plaintiff initiated this action as a complaint for relief under 28 U.S.C. § 2201, the Declaratory Judgment Act. “However, other than the aforementioned complaint, no ‘case of actual controversy’ is pending before this court to which Privett is an ‘interested party’ as is required to confer jurisdiction upon this court to consider Privett’s request for issuance of a declaratory judgment. *Accordingly, the court construes this case as a civil rights action filed under 42 U.S.C. § 1983 in which Privett seeks a declaratory judgment.*” *Recommendation of the Magistrate Judge* at 1 (emphasis added), adopted as opinion of the court, *Order of December 28, 2006 - Court Doc. No. 12*. The court therefore entered an order in accordance with the provisions of 28 U.S.C. § 1915(b) assessing the requisite \$350 filing fee and requiring collection of this fee in partial payments from funds available to the plaintiff. *Order of November 20, 2006 - Court Doc. No. 6* at 1-2.

On March 26, 2007, the plaintiff filed a motion for relief from judgment (Court Doc. No. 14) in which he seeks relief from the order compelling assessment and payment of the \$350 filing fee. In this motion, the plaintiff erroneously asserts that this court construed his complaint as a writ of habeas corpus. He further references a petition for writ of habeas corpus filed with the United

Supreme Court and argues that the Supreme Court's denial of such petition is "binding on this court" thereby rendering "[t]he decision of this court accessing (sic) the fee of 350 dollars ... void." *Motion for Relief from Judgment - Court Doc. No. 14* at 2. The ruling of the United States Supreme Court denying a petition for writ of habeas corpus filed separately from the instant cause of action has no affect on the orders entered in this case.

In light of the foregoing, it is ORDERED that the motion for relief from judgment or order requiring payment of the \$350 filing fee (Doc. No. 14) is denied.

DONE, this the 30th day of March, 2007.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE